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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,173	12/20/2000	Peter Johnstone	31707/207270	8867

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EXAMINER

AHMED, SHEEBA

ART UNIT	PAPER NUMBER
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1773

MAIL DATE	DELIVERY MODE
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07/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/720,173

Applicant(s)

JOHNSTONE, PETER

Examiner

Sheeba Ahmed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-9,11,12,15,16,18-24,26,27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,5-8,16,18-24 and 29-34 is/are allowed.
- 6) ☒ Claim(s) 9,11,12,26,27,35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. No amendments have been made to the claims in the response submitted on January 10, 2007. **Claims 2, 5-9, 11, 12, 15, 16, 18-24, 26, 27, and 29-36 are pending and under consideration.**

Terminal Disclaimer

2. The terminal disclaimer filed on January 10, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of United States Patent No. 6,383,430 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter and Response to Arguments

3. Claims 2, 5-8, 16, 18-24, and 29-34 are allowed.

Applicants arguments with regards to the rejection of claims 9, 11, 12, 26, 27, 35, and 36 under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) in view of Murray (US 4,680,207), as presented in the response submitted on January 3, 2006, are not persuasive. Applicants argue that Murray teaches stretching a film at temperatures well above atmospheric temperature and that neither Martin-Cocher nor Murray discloses the step of biaxially stretching the film at atmospheric temperature as claimed. However, in response the Examiner would like to point out that claims 9, 11, 12, 26, 27, 35, and 36 are directed to a plastic film and not a method of

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making a plastic film and the patentability of a product does not depend on its method of production. If the product is obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). The structure implied by the process steps has been considered the process is not deemed to have imparted distinctive structural characteristics to the final product. See, e.g., In re Garnero, 412 F.2d 276, 279, 162 USPQ 221, 223 (CCPA 1979). Hence, the rejection of claims 9, 11, 12, 26, 27, 35, and 36 under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) in view of Murray (US 4,680,207) has been re-instated. Any inconvenience to the Applicants is greatly regretted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 11, 12, 26, 27, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) in view of Murray (US 4,680,207).

Martin-Cocher et al. disclose a method of wrapping loads in a stretchable film wherein the film is pre-stretched to an elongation value of about 150 to 500% so that

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after relaxation it presents a tension. The film may be pre-stretched in its longitudinal or transverse direction. The invention is related to wrapping palletized loads.

Martin-Cocher do not disclose that the stretched plastics film is relaxed across its cross-section transverse to the stretching direction by between 5 and 20% and that it is biaxially stretched.

However, Murray discloses biaxial stretching of LLDPE to form thermoplastic sacks used for hay and silage wherein the biaxial stretching results in the sack having improved film stretch resistance and high tensile strength in both MD and TD directions and further having improved tear resistance comparable to a uniaxially oriented film (Column 2, lines 64-68).

According, it would have been obvious to one having ordinary skill in the art to biaxially stretch the film taught by Martin-Cocher given that Murray specifically teaches that doing so results in the film having improved film stretch resistance and high tensile strength in both MD and TD directions and further having improved tear resistance comparable to a uniaxially oriented film. Furthermore, it would have been obvious to one having ordinary skill in the art to optimize the amount of relaxation of the film given that Martin-Cocher specifically teach that the amount of film relaxing stabilizes the film and determines the increase in tearing resistance. With regards to the limitations that the plastics material member achieves either or both an improved resistance to degradation from UV light and an improved resistance to gas transmissivity, the Examiner takes the position that such material properties are inherently present in the stretched film disclosed by Martin-Cocher et al. given that the chemical composition of

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the film and the process of making such a stretched film as disclosed by Martin-Cocher et al. and that of the claimed invention are identical.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 8am to 2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571)272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sheeba Ahmed
Art Unit 1773
July 22, 2007